

RENUMBERED

FROM

NO. 106

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SOURCE:

CASE DOCKETS OF FAR EAST WAR CRIMES TRIALS

RECORD GROUP 153

ENTRY 1021

BOX 0001

HEADQUARTERS EIGHTH ARMY
United States Army
Office of the Staff Judge Advocate

Yokohama, Japan
15 August 1947

UNITED STATES OF AMERICA VS BUNHAACHI BANDO

Review of the Staff Judge Advocate

1. The attached record of trial of Bunhaachi Bando at Yokohama, Japan from 24 April 1947 to 25 April 1947, by a Military Commission appointed by paragraph 4, Special Orders No. 94, Headquarters Eighth Army, United States Army, dated 23 April 1947, having been referred to the Staff Judge Advocate, this review is submitted to the Commanding General.

Personal Data Concerning Accused

NAME: Bunhaachi Bando	DATE OF CONFINEMENT: 29 November 1945
AGE: Not shown	DATE OF ARRAIGNMENT: 24 April 1947
RESIDENCE: Okada at 4-chome, 4-chodori, Minato-ku.	PLACE OF TRIAL: Yokohama, Japan
MARITAL STATUS: Married	PERIOD OF TRIAL: 24 April 1947 to 25 April 1947
RELATIVES: Wife and child.	DATE OF SENTENCE: 25 April 1947
EDUCATION: Not shown	SENTENCE: CML for six (6) years.
VOCATION: Not shown	
MILITARY CAREER: Member of the Armed Forces of Japan.	
CLEMENCY RECOMMENDED BY COMMISSION: No.	

2. Synopsis of Charges, Pleas, Findings, Legal Sufficiency and Sentence:

<u>Charge and Specifications:</u>	<u>Pleas</u>	<u>Findings</u>	<u>Legally Sustained</u>
Charge: At the times and places set forth in the specifications, accused did violate the Laws and Customs of War.	NO	G	Yes
Sp 1: In or about October 1943, accused did willfully and unlawfully, mistreat and abuse Sergeant Alfred M. Underwood, an American PW, by beating him with a belt, sticks and a slipper.	NO	G	Yes
Sp 2: On or about 8 May 1944, at Ichioke PW Hospital, accused did willfully and unlawfully, mistreat and abuse James Kelleher, an English PW, by repeatedly beating him and forcing him to stand at attention with his arms outstretched.	NO	G	Yes
Sp 3: On or about 8 May 1944, accused, did willfully and unlawfully mistreat Major John Finch Aberoyd, an Australian PW, by beating him with lather slippers.	NO	G	Yes
Sp 4: On or about 8 May 1944, accused did willfully and unlawfully, mistreat and abuse P. A. Wickens, an Australian PW, by beating and kicking him.	NO	G	Yes

Sp 5: On or about 8 May 1944, accused did willfully and unlawfully, mistreat and abuse H. J. Ritama and Lieutenant E. M. Ganie, Dutch PW's, by beating and kicking them.

NO

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Yes

Sp 6: Between 2 June 43 and 22 June 44, accused did willfully and unlawfully, mistreat numerous Allied PW's, many of whom were then sick, by beating, kicking, and otherwise abusing them.

NO

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Yes

Sp 7: Between 2 June 1943 and 22 June 1944, accused did willfully and unlawfully, misappropriate supplies and rations intended for the use and benefit of Allied PW's.

NO

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Yes

Sentence Imposed: Confinement at hard labor for six (6) years.

Maximum Legal Punishment: Death.

3. Summary of Evidence:

a. For the Prosecution:

As to Specification 1: The accused, Bando, was a Japanese civilian guard at the Ichioika Prisoner of War Hospital, Osaka Area, Honshu, Japan, during the month of October, 1943. Sergeant Alfred M. Underwood, an American soldier, was a prisoner of war confined at the above hospital. During an evening meal the British doctor, POW Jackson, complained to the Japanese doctor that the prisoners were starving and not being given sufficient food. The men were asked to stand who were not getting sufficient food. Two British soldiers and eleven American soldiers stood up when the request was made. Sergeant Underwood and the ten other American soldiers (POW) were taken outside and severely beaten in the face by the accused with the end of a leather slipper (Ex. 2, 3, 4).

As to Specification 2: James Kelleher, an English POW, was acting as chief cook for the prison hospital on 8 May 1944. The accused, Bando, stole about one-half of the prisoners' of war ration of fish which came in that day. It was reported and protested to by the chief cook, Kelleher. When the quartermaster, Kitamura, left the messhall, the accused turned to Kelleher and slapped him in the face many times. He then made Kelleher stand at attention with his arm outstretched. Accused would scream at Kelleher and slap him in the face. This treatment lasted for about fifteen minutes. During the evening the accused at roll call slapped and struck the sick prisoners and lined them up and cuffed them. The accused also lined the cooks up in the kitchen and stood on a table and beat them in the face (Exs. 2, 3, 4, 6, 7, 8, 9, 10).

As to Specification 3: Major Finch Akeroyd, an Australian prisoner of war, was severely beaten and "bashed" by the accused on 8 May 1944. The accused had been reported by Major Akeroyd for stealing fish from the prisoners' of war rations. Accused and other Japanese guards lined up the hospital staff, being the prisoners of war, and ordered them to salute. The accused then "bashed" Major Akeroyd with slippers and bayonet scabbards. The "bashings" lasted for over fifteen minutes. The accused with the other guards went to the various sick bays and beat, kicked, belted and ill-treated the sick prisoners. When Major Akeroyd tried to intervene, the accused hit him several times (Ex. 3, 5, 6).

As to Specification 4: Sergeant R. A. Wickens, an Australian prisoner of war, confined at the Ichioika prisoner of war hospital, was severely beaten and kicked by the accused on 8 May 1944. The prisoners were all lined up, the accused and the other guards going from one prisoner to another flogging them with belts and wooden shoes. Wickens was forced to stand and receive the beatings. He was beaten so severely that he was not recognized by his fellow prisoners for about three weeks (Ex. 3, 8).

As to Specification 5: Sergeant H. J. Ritsma and Lieutenant T.W. Conie, both Dutch prisoners of war, sick and confined to the prisoner of war hospital, were severely beaten, kicked and ill-treated by accused and other guards on or about 8 May 1944 (Ex. 3, 4, 5). Accused ordered the cooks to line up with the sick prisoners. They were played and beaten in the face with belts, shoes and slippers for about an hour. Accused beat the Sergeant and Lieutenant so severely that the injuries to their faces did not heal for about six weeks (Ex. 3, 4, 5). The flogging and beating were inflicted because the prisoners had complained about insufficient food and that Rendo, the accused, had stolen part of the prisoners' ration (Ex. 3, 4, 5).

As to Specification 6: The accused and other guards did on many occasions ill treat the prisoners of war at the hospital by beating and kicking them, using belts, slippers and wooden shoes. On 8 May 1944, accused beat, kicked, belted and ill-treated sick patients, along with the cooks and prisoner of war hospital staff for reporting him for eating food and stealing part of the prisoners' rations. This ill treatment lasted for over an hour or so. During the flogging accused would yell out "all men die O.K." (Ex. 6). As they passed through the different sick bays, accused pulling the sick prisoners from their beds, hit them in the face and on the body until they could no longer stand the punishment (Ex. 2, 3, 4, 6, 7, 8, 9, 10).

As to Specification 7: Accused did on many occasions take food and supplies furnished to the prisoners of war. On 8 May 1944 accused was seen taking fish from the prisoners' mess hall. He was reported for stealing food and eating prisoners' rations on 8 May 1944 (Ex. 2, 3, 4, 5, 6, 7, 8, 10).

b. For the Defense:

The accused, Rendo, having been duly and properly warned and advised of his rights as a witness by the Law Member of the Commission and his defense counsel (R. 28), elected to take the stand as a witness in his own behalf (R. 28). Accused denied that he struck Prisoner of War Underwood and did not remember such a named prisoner (R. 29). Accused testified that Kelleher on 6 May 1944 had requested accused to taste the food and then reported him for it and for stealing rations. Kelleher on being questioned by accused, remained silent and refused to answer. Accused stated that he then slapped Kelleher for lying (R. 29). Accused testified that Major Acheroyd failed to give the proper salute and accused hit him with a slipper (R. 31). The accused denied that he stole rations from the prisoners and took any Red Cross supplies furnished and intended for the use of the prisoners of war (R. 32). Accused testified he struck Sergeant Ritsma and Lt. Conie on 8 May 1944 because Sergeant Major Okubo had ordered him to punish them, but that he did not strike or abuse any other prisoners (R. 32, 33).

On cross-examination accused testified that the prisoners who were slapped did not render the proper salute and their quarters were not kept clean. Accused had been directed to enforce the rule on saluting and for that reason he slapped the prisoners (R. 32). He stated that he had been a prisoner awaiting trial for about one year and five months (R. 32).

4. Errors and Irregularities:

a. There are no errors or irregularities which injuriously affect any substantial rights of the accused. The trial was held without partiality, and adequate opportunity was given the accused to present any matters in his defense that he might desire. He was ably represented by counsel and fully cooperated in his defense.

b. There have been no questions raised in the record of trial that were not properly decided by the Commission upon the hearing of the evidence presented. Two-thirds of the Members of the Commission present at the time of the findings and sentence concurred in the same.

5. Opinion:

a. The record is legally sufficient to sustain the findings of the Commission and the sentence imposed (R. 45).

The Charge and Spec. Questions allege violations of the laws of war, committed on the dates as alleged in the specifications by accused, an enemy national, against a member of the United States Armed Forces, the Australian Forces, the Dutch-Netherland Forces, and the British Forces, at a time when a state of war existed between Japan and the nations above named. Accordingly, the Commission which was appointed to hear the case had jurisdiction of the prisoner and subject matter under SCAP Regulations AG 600.5 (5 Dec 45)LR, subject: Regulations Governing the Trials of Accused War Criminals, and amendments thereto, as established by the Supreme Commander for the Allied Powers. The Commission was constituted by proper authority and had jurisdiction over accused and the offenses.

b. There is sufficient evidence in forms of affidavits properly admitted in evidence which conclusively supports the various specifications herein and established the guilt of the offenses against the accused as alleged. The affidavits fully disclose that eye witnesses, prisoners of war, did observe and were victims of the beatings, kickings and ill treatment inflicted by the accused upon the persons named in the specifications, and of accused having misappropriated for his own use rations furnished and intended for use of the prisoners of war at the hospital prison camp.

c. The various objections made by defense were properly ruled upon by the Law Member of the Commission (R. 3, 4, 5, 6, 8, 9, 10, 11, 15, 17, 18, 19, 24, 27). None of these rulings can be said to be prejudicial to the rights of the accused. There is, however, sufficient legal evidence which in itself supports the findings and sentences of the Court, and in view of the compelling evidence of guilt which is of such quantity and quality as practically to compel in the minds of conscientious and reasonable men the finding of guilty, there are no errors deemed prejudicial to the accused. There are no mitigating circumstances, and no justification for the offenses committed by the accused. (Par 5d of SCAP letter of 5 December 1945, filed in the record).

6. Recommendations:

a. There are no letters or requests for clemency. The record contains a letter from the Chief of the Appeals Branch, War Crimes Division, dated 14 July 1947, stating that no motion will be filed on behalf of accused asking for modification or disapproval of the findings or sentence.

b. The Commission sentenced accused to confinement at hard labor for six (6) years. The sentence is legal.

c. It is believed that the sentence is adequate and clemency is not merited. Accused has been confined since 20 November 1945, he was tried on 24 and 25 April 1947, and was sentenced 25 April 1947.

d. It is recommended that the sentence be approved. In compliance with established policy, owing to the length of time accused spent in confinement prior to the date of sentence, it is further recommended that fourteen (14) months of the confinement be remitted. Sugamo Prison, Tokyo, Japan is the appropriate place of confinement.

7. Action:

Attached hereto is a form of action designed to carry into effect the above recommendations, should they meet with your approval.

GEORGE R. TAYLOR
Reviewer
Judge Advocate Section

I concur. However, it is considered that the sentence is inadequate in view of the multiple specifications of which the accused was found guilty.

ALLAN R. BROOME
Lt Colonel JAGD
Army Judge Advocate